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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/506,482

09/02/2004

Mats Sagfors

P15233-US1

2818

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7590

02/25/2009

ERICSSON INC.  
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EXAMINER

BRANDT, CHRISTOPHER M

ART UNIT

PAPER NUMBER

2617

MAIL DATE

DELIVERY MODE

02/25/2009

PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

**Advisory Action  
Before the Filing of an Appeal Brief**

Application No.

10/506,482

Applicant(s)

SAGFORS, MATS

Examiner

CHRISTOPHER M. BRANDT

Art Unit

2617

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 09 February 2009 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

- a) ☐ The period for reply expires \_\_\_\_\_ months from the mailing date of the final rejection.  
b) ☒ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.

Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**NOTICE OF APPEAL**

2. ☐ The Notice of Appeal was filed on \_\_\_\_\_. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

**AMENDMENTS**

3. ☐ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because  
(a) ☐ They raise new issues that would require further consideration and/or search (see NOTE below);  
(b) ☐ They raise the issue of new matter (see NOTE below);  
(c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or  
(d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: \_\_\_\_\_. (See 37 CFR 1.116 and 41.33(a)).

4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).  
5. ☐ Applicant's reply has overcome the following rejection(s): \_\_\_\_\_.  
6. ☐ Newly proposed or amended claim(s) \_\_\_\_\_ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).  
7. ☐ For purposes of appeal, the proposed amendment(s): a) ☐ will not be entered, or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.  
The status of the claim(s) is (or will be) as follows:  
Claim(s) allowed: \_\_\_\_\_.  
Claim(s) objected to: \_\_\_\_\_.  
Claim(s) rejected: \_\_\_\_\_.  
Claim(s) withdrawn from consideration: \_\_\_\_\_.

**AFFIDAVIT OR OTHER EVIDENCE**

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).  
9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing a good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).  
10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

**REQUEST FOR RECONSIDERATION/OTHER**

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because:  
See Continuation Sheet.  
12. ☐ Note the attached Information *Disclosure Statement*(s). (PTO/SB/08) Paper No(s). \_\_\_\_\_.  
13. ☐ Other: \_\_\_\_\_.

/George Eng/  
Supervisory Patent Examiner, Art Unit 2617

/Christopher M Brandt/  
Examiner, Art Unit 2617

Continuation of 11. With regard to applicant's argument that the Final Office Action is premature, the examiner respectfully disagrees. The emphasized amendment that was inherent (i.e. "from the radio resource management entity") did not necessitate the Final Office Action. The amendment that necessitated the new ground of rejection and therefore made the Action Final was the "located in" amendment that changed the scope to further limit the claim and that is why the examiner used "Applicant's Admitted Prior Art." If the applicant disagrees with the examiner, the applicant should have filed a petition under 37 CFR 1.181(f) within two months from the date of the Final Rejection. With regard to applicant's argument that none of the cited references sends a radio resource data from a radio resource management entity located in a radio network control node intermediate to a transport protocol sender and a transport protocol receiver, wherein the radio resource data is then utilized to dynamically adapt transport protocol load to link state information between the transport protocol sender and the transport protocol receiver, the examiner respectfully disagrees. The examiner relied upon Ameigeiras to show "transferring to said transport protocol receiver one or more signals carrying data from a radio resource management entity of a radio network control node intermediate to said transport protocol sender and said transport protocol receiver, said transport protocol receiver using said data to dynamically adapt transport protocol load." This is taught in figure 1, paragraph 15, when Ameigeiras teaches that a TCP sender sends data to a user equipment through a radio network controller. The TCP sender is read as the transport protocol sender, the user equipment is read as the transport protocol receiver, and the radio network controller is read as the radio resource management entity of a radio network control node intermediate to said transport protocol sender and said transport protocol receiver, since the data in Ameigeiras is being transferred through (i.e. intermediate). The examiner further relied upon Rautiola, Aweya, and AAPA to disclose radio resource data, dynamically adapted transport load to link state information between the transport protocol sender and the transport protocol receiver, and the location of the resource management entity, respectively. With regard to applicant's argument that Aweya is not analogous to the radio resource data received from a resource management entity located intermediate to a transport protocol sender and a transport protocol receiver, the examiner respectfully disagrees. The examiner relied upon Aweya to show dynamically adapted transport protocol load to link state information between the transport protocol sender and the transport protocol receiver, which Aweya states controlling congestion by modifying this at an intermediate network element (column 6 lines 9-29). Ameigeiras teaches the data received from a resource management entity located intermediate to a transport protocol sender and a transport protocol receiver as shown above. Rautiola discloses a radio resource management located in the mobile unit however, applicant amended the claim to show that this is located within the radio network control node. Therefore, the examiner provided applicant's with this feature by using Applicant's Admitted Prior Art. Previously, the claim was written such that the radio resource management entity could have been coupled directly or indirectly to the radio network control node. As a result, the claims are written such that the cited references read upon the claims and that the Final Office Action was not premature.

Chris Brandt  
Art Unit 2617  
02/22/2009